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8
9 UNITED STATES DISTRICT COURT
10 DISTRICT OF NEVADA
11

12 DAN L. WULZ,
13
14 Plaintiff,

15 vs.

16 ENHANCED RECOVERY CORPORATION,
17 a foreign corporation,
18
19 Defendant.

20 No.

21 JURY DEMANDED

22 COMPLAINT

23 JURISDICTION

24 1. The jurisdiction of this Court attains pursuant to the
25 FDCPA, 15 U.S.C. § 1692k(d), 28 U.S.C. § 1331, 28 U.S.C. § 1332,
26 and the doctrine of supplemental jurisdiction. Venue lies in the
27 Southern Division of the Judicial District of Nevada as Plaintiff's
28 claims arose from acts of the Defendant(s) perpetrated therein.

PRELIMINARY STATEMENT

2. This action is instituted in accordance with and to
remedy Defendant's violations of the Federal Fair Debt Collection
Practices Act, 15 U.S.C § 1692 et seq. (hereinafter "FDCPA"), and
of related state law obligations brought as supplemental claims
hereto.

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1 3. In 2007, Defendant initiated a campaign of abusive,
2 unfair, unreasonable, and unlawful debt collection activity
3 directed against Plaintiff in Las Vegas, Nevada.

4 4. As a result of these and other violations of law,
5 Plaintiff seeks hereby to recover actual and statutory damages
6 together with reasonable attorney's fees and costs.

7
8 PARTIES

9 5. Plaintiff, Dan L. Wulz, is a natural person who resides
10 in Las Vegas, Nevada, and is "any person" as defined by 15 U.S.C.
11 Section 1692(k)(a). *Whatley v. Universal Collection Bureau, Etc.*,
12 525 F. Supp. 1204 (1981).

13 6. Defendant, Enhanced Recovery Corporation, is a foreign
14 corporation, the principal purpose of whose business is the
15 collection of debts, operating a debt collection agency from its
16 principal place of business in Jacksonville, FL, and regularly
17 collects or attempts to collect debts owed or due or asserted to be
18 owed or due another, and is a "debt collector" as defined by 15
19 U.S.C. Section 1692a(6).

20
21 FACTUAL ALLEGATIONS

22 7. Plaintiff(s) repeat, reallege and assert all factual
23 allegations contained in the preliminary statement to this
24 Complaint and reassert them as incorporated in full herein.

25 8. Plaintiff is the Deputy Executive Director of Clark County
26 Legal Services.

1 9. Approximately one year ago Plaintiff received a new home
2 telephone number.

3 10. Over the last months Plaintiff has received calls from
4 Defendant attempting to collect money from *Donald Bruce*.

5 11. Plaintiff has bent over backwards urging Defendant to
6 simply leave him alone.

7 12. Defendant called Plaintiff numerous times over the last
8 few months.

9 13. Plaintiff has records of automated calls left on December
10 31, 2007, January 4, 2008, January 19, 2008, and January 21, 2008.

11 14. Defendant left return call numbers 800-305-5557 and 800-
12 326-0120 on its sundry messages.

13 15. On January 21, 2008, Plaintiff called Defendant.

14 16. Plaintiff he explained he was not *Mr. Bruce* and received
15 assurance that there would be no more calls from Defendant.

16 17. Defendant called again on January 22, 2008, January 29,
17 2008, February 2, 2008, and February 4, 2008.

18 18. On February 4, 2008, Plaintiff again called Defendant.

19 19. Plaintiff advised Defendant's representative both who he
20 was and that this was his second call requesting to be left alone.

21 20. The representative assured Plaintiff he would receive no
22 further calls from Defendant.

23 21. Defendant called again on both February 9 and February
24 11, 2008.

25 22. Defendant's continued phone contacts to Plaintiff, at
26 times and at a place known to be inconvenient to Plaintiff, were
27 made in violation of FDCPA § 1692c(a)(1). Fox v. Citicorp Credit
28 Services, Inc., 15 F.3d 1507, 1516, fn. 10 (9th Cir. 1994), Austin

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1 v. Great Lakes Collection Bureau, Inc., 834 F. Supp. 557, 559 (D.
2 Conn. 1993).

3 23. The Defendant's repeated recalls to Plaintiff
4 constituted harassment in violation of FDCPA §§ 1692d and 1692d(5).
5 Fox v. Citicorp Credit Services, Inc., 15 F.3d 1507, 1516 (9th Cir.
6 1994), Bingham v. Collection Bureau, Inc., 505 F. Supp. 864, 873
7 (1981), Kuhn v. Account Control Technology, Inc., 865 F. Supp.
8 1443, 1452-53 (D. Nev. 1994).

9 24. The foregoing acts and omissions of Defendant were
10 undertaken by it willfully, maliciously, and intentionally,
11 knowingly, and/or in gross or reckless disregard of the rights of
12 Plaintiff.

13 25. Indeed, the foregoing acts and omissions of Defendant
14 were undertaken by it indiscriminately and persistently, as part of
15 its regular and routine debt collection efforts, and without regard
16 to or consideration of the identity or rights of Plaintiff.

17 26. As a proximate result of the foregoing acts and omissions
18 of Defendant, Plaintiff has suffered actual damages and injury,
19 including, but not limited to, stress, humiliation, mental anguish
20 and suffering, and emotional distress, for which Plaintiff should
21 be compensated in an amount to be proven at trial.

22 27. As a result of the foregoing acts and omissions of
23 Defendant, and in order to punish Defendant for its outrageous and
24 malicious conduct, as well as to deter it from committing similar
25 acts in the future as part of its debt collection efforts,
26 Plaintiff is entitled to recover punitive damages in an amount to
27 be proven at trial.

28 . . .

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CAUSES OF ACTION

COUNT I

28. The foregoing acts and omissions of Defendant constitute violations of the FDCPA, including, but not limited to, Sections 1692d, 1692e, 1692f and 1692g.

29. Plaintiff is entitled to recover statutory damages, actual damages, reasonable attorney's fees, and costs.

COUNT II

30. The foregoing acts and omissions constitute unreasonable debt collection practices in violation of the doctrine of Invasion of Privacy. *Kuhn v. Account Control Technology, Inc.*, 865 F. Supp. 1443, 1448-49 (D. Nev. 1994); *Pittman v. J. J. Mac Intyre Co. of Nevada, Inc.*, 969 F. Supp. 609, 613-14 (D. of Nev. 1997).

31. Plaintiff is entitled to recover actual damages as well as punitive damages in an amount to be proven at trial.


JURY DEMANDED

Plaintiff hereby demands trial by a jury on all issues so triable.

WHEREFORE, Plaintiff prays that this Honorable Court grant the following relief:

1. Award actual damages.
2. Award punitive damages.
3. Award statutory damages of \$1,000 pursuant to 15 U.S.C. § 1692k.
4. Award reasonable attorney fees.
5. Award costs.

1 6. Grant such other and further relief as it deems just and
2 proper.

3 Respectfully submitted,
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